

HOUSE BILL No. 1800

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-5.

Synopsis: Operating while intoxicated (OWI) enhancements. Permits an OWI offense to be enhanced due to a prior OWI conviction within the previous ten years. (Current law permits enhancement for an OWI conviction within the previous five years.) Makes a technical correction.

Effective: July 1, 2005.

Thomas

January 19, 2005, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1800



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-30-5-3 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2005]: Sec. 3. A person who violates section 1
- 3 or 2 of this chapter commits a Class D felony if:
- 4 (1) the person has a previous conviction of operating while
- 5 intoxicated that occurred within the ~~five (5)~~ **ten (10)** years
- 6 immediately preceding the occurrence of the violation of section
- 7 1 or 2 of this chapter; or
- 8 (2) the person:
- 9 (A) is at least twenty-one (21) years of age;
- 10 (B) violates section 1(b) or 2(b) of this chapter; and
- 11 (C) operated a vehicle in which at least one (1) passenger was
- 12 less than eighteen (18) years of age.
- 13 SECTION 2. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS
- 14 [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person who causes serious
- 15 bodily injury to another person when operating a motor vehicle:
- 16 (1) with an alcohol concentration equivalent to at least
- 17 eight-hundredths (0.08) gram of alcohol per:



1 (A) one hundred (100) milliliters of the person's blood; or
 2 (B) two hundred ten (210) liters of the person's breath;
 3 (2) with a controlled substance listed in schedule I or II of
 4 IC 35-48-2 or its metabolite in the person's body; or
 5 (3) while intoxicated;
 6 commits a Class D felony. However, the offense is a Class C felony if
 7 the person has a previous conviction of operating while intoxicated
 8 within the ~~five (5)~~ **ten (10)** years preceding the commission of the
 9 offense.

10 (b) A person who violates subsection (a) commits a separate offense
 11 for each person whose serious bodily injury is caused by the violation
 12 of subsection (a).

13 (c) It is a defense under subsection (a)(2) that the accused person
 14 consumed the controlled substance under a valid prescription or order
 15 of a practitioner (as defined in IC 35-48-1) who acted in the course of
 16 the practitioner's professional practice.

17 SECTION 3. IC 9-30-5-5 IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A person who causes the
 19 death of another person when operating a motor vehicle:

- 20 (1) with an alcohol concentration equivalent to at least
 21 eight-hundredths (0.08) gram of alcohol per:
 22 (A) one hundred (100) milliliters of the person's blood; or
 23 (B) two hundred ten (210) liters of the person's breath;
 24 (2) with a controlled substance listed in schedule I or II of
 25 IC 35-48-2 or its metabolite in the person's blood; or
 26 (3) while intoxicated;

27 commits a Class C felony. However, the offense is a Class B felony if
 28 the person has a previous conviction of operating while intoxicated
 29 within the ~~five (5)~~ **ten (10)** years preceding the commission of the
 30 offense, or if the person operated the motor vehicle when the person
 31 knew that the person's driver's license, driving privilege, or permit is
 32 suspended or revoked for a previous conviction for operating a vehicle
 33 while intoxicated.

34 (b) A person at least twenty-one (21) years of age who causes the
 35 death of another person when operating a motor vehicle:

- 36 (1) with an alcohol concentration equivalent to at least
 37 fifteen-hundredths (0.15) gram of alcohol per:
 38 (A) one hundred (100) milliliters of the person's blood; or
 39 (B) two hundred ten (210) liters of the person's breath; or
 40 (2) with a controlled substance listed in schedule I or II of
 41 ~~IC 35-48-4~~ **IC 35-48-2** or its metabolite in the person's blood;

42 commits a Class B felony.

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1 (c) A person who violates subsection (a) or (b) commits a separate
2 offense for each person whose death is caused by the violation of
3 subsection (a) or (b).

4 (d) It is a defense under subsection (a)(2) or subsection (b)(2) that
5 the accused person consumed the controlled substance under a valid
6 prescription or order of a practitioner (as defined in IC 35-48-1) who
7 acted in the course of the practitioner's professional practice.

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